

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF PUERTO RICO**

IN RE:

JAIME R. NIETO DEL TORO,

Debtor.

**JAIME R. NIETO DEL TORO,  
REPRESENTED BY NOREEN  
WISCOVITCH, CHAPTER 7 TRUSTEE,**

**Plaintiff,**

v.

**JAIME R. NIETO DEL TORO; JOSE A.  
NEGRON SEIJO; LINA I. VAELLO  
ATANACIO,**

**Defendants.**

Bankruptcy No.: 21-03574 (ESL)

Chapter 7

**Adv. Proc. No. 22-00059-ESL**

**RE: Declaratory Judgment, Turnover of  
Property, and Non Dischargeability of Debts  
pursuant to 11 U.S.C. §§ 105, 541, 542,  
727(a)(4)(A), 727(c)(1); FRBP 7001(1), 7001(6),  
7001(9).**

**MOTION TO SET ASIDE ISC HEARING**

**TO THE HONORABLE COURT:**

**COMES NOW**, through the undersigned counsel, the duly appointed and acting Chapter 7 Trustee of the Bankruptcy Estate of Jaime R. Nieto Del Toro (the “Debtor”), Noreen Wiscovitch-Rentas (the “Trustee” or “Plaintiff”), who respectfully states, alleges, and prays as follows:

1. On August 22, 2022, the Trustee initiated the instant adversary proceeding by filing a complaint against the Debtor (the “Debtor/Defendant”) and against Jose A. Negron Seiyo and Lina I. Vaello Atanacio (the “Co-Defendants”) for declaratory judgment, turnover of property, and non dischargeability of debts pursuant to 11 U.S.C. §§ 105, 541, 542, 727(a)(4)(A), 727(c)(1); FRBP 7001(1), 7001(6), 7001(9) (the “Complaint”). [Dkt. No. 1]

2. On August 23, 2022, summons for the Complaint were issued. [Dkt. Nos. 2, 3, 4]

3. On August 24, 2022, the summons were served on the Debtor/Defendant at Po Box 853 Añasco, PR 00610 and on the Co-Defendants at PO Box 379 Añasco, PR 00610, pursuant to Federal Rule of Bankruptcy Procedure 7004(b)(1), and on that same date a certificate of service was filed which evinces that service was properly made. [Dkt. No. 11]

4. On August 24, 2022, this Honorable Court entered an order and notice for preliminary pretrial and scheduling conference for December 9, 2022 (the “ISC Order”). [Dkt. No. 12]

5. According to the summons, the Debtor/Defendant and the Co-Defendant had thirty (30) days after the date of issuance of the summons to answer the Complaint. The thirty (30) days were due on September 22, 2022.

6. On December 1, 2022, the Trustee filed a motion for entry of order approving the settlement agreement entered between the Trustee and the Co-Defendants to settle the dispute between them in relation to the captioned adversary proceeding, under Bankruptcy Rule 9019(a). [Dkt. No. 21]

7. On today’s date, the Trustee filed a motion requesting entry of default pursuant to Fed. R. Bankr. P. 7055 requesting the Clerk of this Court to enter default against the Debtor/Defendant for its failure to answer the Complaint and/or file any responsive pleading. [Dkt. No. 22]

8. Given that the Trustee has filed a motion for the approval of the settlement agreement reached with the Co-Defendants and that the Trustee requested the entry of default against the Debtor/Defendant for its failure to respond to the Complaint, Plaintiff respectfully requests from this Honorable Court to set aside the ISC Hearing set for December 9, 2022, and to excuse Plaintiff from complying with the initial disclosures and from filing a pre-trial report.

**WHEREFORE**, Plaintiff respectfully requests from this Honorable Court to set aside the ISC Hearing set for December 9, 2022, and to excuse Plaintiff from complying with the initial disclosures and from filing a pre-trial report, with any other relief the Court deems just and proper.

**RESPECTFULLY SUBMITTED.**

San Juan, Puerto Rico, on this December 2, 2022.

**NOTICE**

Within fourteen (14) days after service as evidenced by the certification, and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this paper has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the clerk's office of the United States Bankruptcy Court for the District of Puerto Rico. If no objection or other response is filed within the time allowed herein, the paper will be deemed unopposed and may be granted unless: (i) the requested relief is forbidden by law; (ii) the requested relief is against public policy; or (iii) in the opinion of the court, the interest of justice requires otherwise.

**CERTIFICATE OF SERVICE**

I hereby certify that on this same date, I electronically filed the foregoing with the clerk of the Court using the CM/ECF system, which will send notification of such filing to all registered CM/ECF participants. I further certify that the foregoing document has been served to the Debtor at PO Box 853, Añasco P.R. 00610 and by email at [jaimernieto@hotmail.com](mailto:jaimernieto@hotmail.com), to the Co-Defendant's legal representation counsel Nelson Bassatt at PO Box 899 Añasco, P.R. 00610 and by email at [bassattlawfirm@gmail.com](mailto:bassattlawfirm@gmail.com), and will deposit exact copies thereof in the US regular mail to the U.S. Trustee, and the 20 largest unsecured creditors.

*/s/ Javier Vilarino*  
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